

Law360's Weekly Verdict: Legal Lions & Lambs

By **Aebra Coe**

Law360, New York (March 9, 2017, 5:36 PM EST) -- Shook Hardy & Bacon LLP nabbed a spot on this week's legal lions list by winning a \$140 million jury verdict for Sprint in litigation with Time Warner Cable over technology patents, while Seyfarth Shaw LLP was made a legal lamb by a defeat when the Ninth Circuit found that Dodd-Frank extends to non-SEC whistleblowers, including a former employee of the firm's client.

Legal Lions

Shook Hardy & Bacon LLP became this week's top legal lion Friday when a Kansas federal jury awarded its client Sprint Communications Co. nearly \$140 million, finding that Time Warner Cable Inc. willfully infringed five patents covering technology that lets users make phone calls over the internet. The jury sided with Sprint — and against TWC's bids to invalidate or otherwise undermine the patents — on multiple claims for each of the five patents, finding that Sprint proved the cable giant had infringed on elements of the technology either literally or under the doctrine of equivalents. Sprint is represented by Aaron Hankel, B. Trent Webb, Peter E. Strand, Ryan Dykal, John Garretson, Jordan T. Bergsten, Lauren Douville and Robert Reckers of Shook Hardy & Bacon LLP.

A federal jury in Massachusetts delivered a verdict in favor of Fresenius Medical Care Friday in a bellwether trial over its dialysis treatments in a big win for the medical supply company's attorneys at Dowd Bennett LLP, Collora LLP and Fish & Richardson PC. Plaintiff Carley Dial's case was the first to go to trial for people who opted out of a \$250 million settlement over claims that Fresenius' dialysis treatment with Naturalyte and Granuflo caused patient deaths. Fresenius is represented by James Bennett and Megan S. Heinsz of Dowd Bennett LLP, William Kettlewell, Sara Silva and Maria Durant of Collora LLP and Juanita Brooks and Roger Denning of Fish & Richardson PC.

Next up on the lion's list are Morris Nichols Arsht & Tunnell LLP, Kirkland & Ellis LLP and Wolf Greenfield & Sacks PC, which on Wednesday secured a verdict from a Delaware federal jury finding an ultrathin stent graft device produced by the firms' client C.R. Bard Inc. does not infringe a patent held by W.L. Gore & Associates Inc. and that the patent is invalid over prior art. Bard is represented by Jack B. Blumenfeld and Michael J. Flynn of Morris Nichols Arsht & Tunnell LLP, Steven Cherny, Katharine M. Burke, Michael A. Pearson Jr. and Edward C. Donovan, Amanda Hollis, Jeremy Wilson and Jason Wilcox of Kirkland & Ellis LLP, and John L. Strand of Wolf Greenfield & Sacks PC.

In a show of legal strength Friday, Proskauer Rose LLP, Sidley Austin LLP and HeplerBroom secured a favorable decision from a Missouri jury, which returned a complete defense verdict for Johnson &

Johnson and Imerys Talc America in a case attempting to link a woman's ovarian cancer to talcum powder, breaking a string of massive victories for plaintiffs in the closely watched litigation. Johnson & Johnson is represented by Bart Williams and Manuel Cachán of Proskauer Rose LLP, Kimberly Dunne of Sidley Austin LLP and Thomas Magee of HeplerBroom.

Rounding out this week's legal lions list is a team of attorneys from the Stanford Law School Supreme Court Litigation Clinic and Recht Kornfeld PC who clinched a victory at the U.S. Supreme Court. The court ruled Monday that a Colorado man convicted of unlawful sexual contact is entitled to a new trial after learning that a juror made a racist comment, holding that courts may penetrate the secrecy of the jury deliberation room when there is reason to believe that racial bias has cheated a defendant of the right to an impartial jury. Pena-Rodriguez is represented by Jeffrey Fisher, Pamela Karlan and Brian Wolfman of the Stanford Law School Supreme Court Litigation Clinic and Jonathan Rosen of Recht Kornfeld PC.

Legal Lambs

In a legal lamb-worthy loss this week for a team of attorneys at Seyfarth Shaw, a divided Ninth Circuit panel ruled Wednesday that the Dodd-Frank Act's anti-retaliation protections extend to whistleblowers who haven't reported to the U.S. Securities and Exchange Commission, affirming that the firm's client Digital Realty Trust Inc. can be sued by a former employee over his termination. A split three-judge panel affirmed U.S. District Judge Edward M. Chen's decision denying Digital Realty's bid to dismiss the suit. Digital Realty Trust is represented by Brian T. Ashe, Tamara H. Fisher, Kiran A. Seldon and Kyle A. Petersen of Seyfarth Shaw LLP.

Next on the legal lambs list is a former lawyer who was convicted of helping a fraudster secure \$126 million from Citigroup Inc. for a bogus mall deal. The Second Circuit on Wednesday upheld the conviction of Ephraim Frenkel, and also affirmed the \$70 million restitution ordered against him despite past questions of whether the high amount makes the government look foolish. In a summary order, a three-judge panel ruled that there was ample evidence backing the conviction and penalties against Frenkel, who prosecutors say fabricated documents to induce the bank into loaning co-conspirator Mark Stern \$126 million for the purchase of shopping malls.

Toymaker MGA, best known as the maker of Bratz dolls, is stuck paying steep damages and about \$2 million in attorneys' fees in a game patent infringement suit after a Louisiana federal judge ruled Wednesday that the company's conduct was "deplorable" enough to warrant the big price tag. The defeat lands MGA's attorneys at Baker & Hostetler LLP and Phelps Dunbar LLP on this week's legal lambs list. MGA is represented by Allen M. Sokal and Alaine J. Lakawicz of Baker & Hostetler LLP and David L. Patron of Phelps Dunbar LLP.

An attorney with Prenda Law, a firm long accused of so-called porn trolling, pled guilty Monday for his role in a scheme to extort millions in fraudulent copyright infringement settlements from victims who downloaded pornographic movies, according to the U.S. Department of Justice. John Steele, 45, was arrested in December, along with Prenda colleague Paul Hansmeier, 35, and hit with an 18-count indictment in Minnesota federal court.

Sidley Austin LLP is this week's final legal lamb. The law firm was dealt a blow at the Federal Circuit Monday when the court affirmed a \$30 million infringement verdict against Sidley client Sprint over two Prism Technologies network security patents, rejecting Sprint's argument that a Nebraska judge should not have allowed Prism's prior settlement with AT&T into evidence. Sprint is represented by Carter G.

Phillips, Ryan C. Morris, Jennifer J. Clark, Michael J. Bettinger and Irene Yang of Sidley Austin LLP.

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